

## § 54.4974-1

## 26 CFR Ch. I (4-1-03 Edition)

are not owner-employees during such taxable year.

(2) *Special rule.* In the case of a taxable year of the employer in which there are no employees other than owner-employees, the amount permitted to be contributed under a plan by an owner-employee (as an employee) is zero.

(i) *Special rules and cross references—*

(1) *Time of contributions.* For purposes of this section, time of employer contributions made with respect to any taxable year shall take into account the rules specified in section 404(a)(6), relating to time when contributions deemed made.

(2) *Disallowance of deduction.* For disallowance of deduction for taxes paid under this section, see section 275(a)(6).

(3) *Certain annuity contracts.* For a special rule relating to owner-employee contributions for premiums on annuity, etc. contracts, see § 1.401(e)4(a).

(4) *Disqualification for excess contributions.* For plan qualification requirements relating to excess contributions, see section 401(d)(5).

[T.D. 7759, 46 FR 6932, Jan. 22, 1981]

### § 54.4974-1 Excise tax on accumulations in individual retirement accounts or annuities.

(a) *General rule.* A tax equal to 50 percent of the amount by which the minimum amount required to be distributed from an individual retirement account or annuity described in section 408 during the taxable year of the payee under paragraph (b) of this section exceeds the amount actually distributed during the taxable year is imposed by section 4974 on the payee.

(b) *Minimum amount required to be distributed.* For purposes of this section, the minimum amount required to be distributed is the amount required under § 1.408-2(b)(6)(v) to be distributed in the taxable year described in paragraph (a) of this section.

(c) *Examples.* The application of this section may be illustrated by the following examples.

*Example (1).* In 1975, the minimum amount required to be distributed under § 1.408-2(b)(6)(v) to A under his individual retirement account is \$100. Only \$60 is actually distributed to A in 1975. Under section 4974, A

would have an excise tax liability of \$20 [50% of (\$100—\$60)].

*Example (2).* Although no distribution is required under § 1.408-2(b)(6)(v) to be made in 1986, H, a married individual born on February 1, 1921, who has established and maintained an individual retirement account decides to begin receiving distributions from the account beginning in 1986. H's wife, W, was born on March 6, 1921. H and W are calendar year taxpayers. H decides to receive his interest in the account over the joint life and last survivor expectancy of himself and his wife. On January 1, 1986, the balance in H's account is \$10,000; H and W, based on their nearest birthdates, are 65; and the joint life and last survivor expectancy of H and his wife is 22.0 years (see Table II of § 1.72-9). His annual payments during the following years (none of which were required) were determined by dividing the balance in the account on the first day of each year by the joint life and last survivor expectancy reduced by the number of whole years elapsed since the distributions were to commence.

Date	Life expectancy minus whole years elapsed	Account balance at beginning of each year	Annual payment
Jan. 1, 1986 .....	22.0	\$10,000	\$455
Jan. 1, 1987 .....	21.0	10,118	482
Jan. 1, 1988 .....	20.0	10,214	511
Jan. 1, 1989 .....	19.0	10,285	541
Jan. 1, 1990 .....	18.0	10,329	574
Jan. 1, 1991 .....	17.0	10,340	608

For 1986, 1987, 1989, and 1990, the amount required to be distributed under § 1.408-2(b)(6)(v) is zero. Thus, H would have no excise tax liability under section 4974 for these years. In 1991, the year H attains age 70½, the amount required to be distributed from the account under § 1.408-2(b)(6)(v) is \$565, determined by dividing \$10,340 (the account balance as of January 1, 1991) by 18.8 years (the joint life and last survivor expectancy of H and W, assuming they are both still living, as of January 1, 1991). If W should die after December 31, 1990, the joint life and last survivor expectancy determined on January 1, 1991 (18.3 years) would not be redetermined. Because the amount distributed from the account in 1991 (\$608) exceeds the amount required to be distributed from the account in 1991 (\$565), H has no excise tax liability under section 4974 for 1991.

*Example (3).* Assume the same facts as in example (2) except that W dies in 1988. For 1988, 1989, and 1990, the amount required to be distributed under § 1.408-2(b)(6)(v) is zero. Thus, H would have no excise tax liability under section 4974 for these years. In 1991, the amount required to be distributed under

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§ 1.408-2(b)(6)(v) is \$855, determined by dividing \$10,340 (the account balance as of January 1, 1991) by 12.1 years (the life expectancy of H as of January 1, 1991). Because the amount distributed from the account in 1991 (\$608) is less than the amount required to be distributed from the account in 1991 (\$855), H has an excise tax liability of \$123.50 under section 4974 for 1991 [50% of (\$855—\$608)].

[T.D. 7714, 45 FR 52799, Aug. 8, 1980]

### § 54.4974-2 Excise tax on accumulations in qualified retirement plans.

Q-1. Is any tax imposed on a payee under any qualified retirement plan or any eligible deferred compensation plan (as defined in section 457(b)) to whom an amount is required to be distributed for a taxable year if the amount distributed during the taxable year is less than the required minimum distribution?

A-1. Yes, if the amount distributed to a payee under any qualified retirement plan or any eligible deferred compensation plan (as defined in section 457(b)) for a calendar year is less than the required minimum distribution for such year, an excise tax is imposed on such payee under section 4974 for the taxable year beginning with or within the calendar year during which the amount is required to be distributed. The tax is equal to 50 percent of the amount by which such required minimum distribution exceeds the actual amount distributed during the calendar year. Section 4974 provides that this tax shall be paid by the payee. For purposes of section 4974, the term required minimum distribution means the minimum distribution amount required to be distributed pursuant to section 401(a)(9), 403(b)(10), 408(a)(6), 408(b)(3), or 457(d)(2), as the case may be, and the regulations thereunder. Except as otherwise provided in A-6 of this section, the required minimum distribution for a calendar year is the required minimum distribution amount required to be distributed during the calendar year. A-6 of this section provides a special rule for amounts required to be distributed by an employee's (or individual's) required beginning date.

Q-2. For purposes of section 4974, what is a qualified retirement plan?

A-2. For purposes of section 4974, each of the following is a qualified retirement plan—

(a) A plan described in section 401(a) which includes a trust exempt from tax under section 501(a);

(b) An annuity plan described in section 403(a);

(c) An annuity contract, custodial account, or retirement income account described in section 403(b);

(d) An individual retirement account described in section 408(a) (including a Roth IRA described in section 408A);

(e) An individual retirement annuity described in section 408(b) (including a Roth IRA described in section 408A); or

(f) Any other plan, contract, account, or annuity that, at any time, has been treated as a plan, account, or annuity described in paragraphs (a) through (e) of this A-2, whether or not such plan, contract, account, or annuity currently satisfies the applicable requirements for such treatment.

Q-3. If a payee's interest under a qualified retirement plan is in the form of an individual account, how is the required minimum distribution for a given calendar year determined for purposes of section 4974?

A-3. (a) *General rule.* If a payee's interest under a qualified retirement plan is in the form of an individual account and distribution of such account is not being made under an annuity contract purchased in accordance with A-4 of § 1.401(a)(9)-6T, the amount of the required minimum distribution for any calendar year for purposes of section 4974 is the required minimum distribution amount required to be distributed for such calendar year in order to satisfy the minimum distribution requirements in § 1.401(a)(9)-5 as provided in the following (whichever is applicable)—

(1) Section 401(a)(9) and §§ 1.401(a)(9)-1 through 1.401(a)(9)-5 and 1.401(a)(9)-7 through 1.401(a)(9)-9 in the case of a plan described in section 401(a) which includes a trust exempt under section 501(a) or an annuity plan described in section 403(a);

(2) Section 403(b)(10) and § 1.403(b)-3 (in the case of an annuity contract, custodial account, or retirement income account described in section 403(b));